Prepared Statement of Gary Hart, Warren Rudman, Lee Hamilton, and Donald Rice, Members of the U.S. Commission on National Security/21st Century, before the Subcommittee on Terrorism and Technology of the Senate Judiciary Committee
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Mr. Chairman,

We are honored to be here today on behalf of the U.S. Commission on National Security/21st Century, which, as you know, submitted its final Phase III Report on January 31st. As you also know, this federal Commission was chartered to undertake the most comprehensive examination of the national security apparatus of the United States Government since the passage of the National Security Act of 1947.

It has done so. The Commission examined national security in its broadest sense, not "defense" as traditionally defined. We looked well beyond budgetary and election cycles, out to a quarter century. We decided among ourselves that we owed the American people our *best*, not the most easily agreed, solutions to the problems we face.

The Phase III Report recommends an integrated program of reform built on a sound analytical foundation, based on a single key premise, and shaped by a unitary core principle.

That *foundation* consists of the first two phases of our work: a thorough analysis of the future global security environment and the development of a U.S. National Security Strategy to deal with that environment. That foundation generated the *premise* that habits hardwired into government during a half-century of Cold War, grown bureaucratic and lethargic, now inhibit our capacity to understand and manage new challenges and opportunities.

Those habits must be replaced by a new *principle*: that a culture of strategic thinking and action permeate the U.S. national security establishment. That principle, however, requires that there be a coherent strategy *process* and a sound organizational *structure* for national security—and right now we have neither. We have not had in recent years an adequate top-down process of integrated strategy formulation, where priorities were determined and maintained, and where resources were systematically matched to priorities. There has been almost no effort to undertake functional budgeting analysis for problems that spread over the responsibilities of many Executive Branch departments and agencies—the result being that it is very difficult for Congress to have a sense of what an administration is doing with respect to major national security objectives. There has been no systematic effort from the NSC to direct the priorities of the intelligence community, to align them with the priorities of national strategy.

The Commission has made several recommendations with regard to this larger, generic problem. We believe that significant policy innovations cannot be generated or sustained in the absence of managerial reform.

In our view, the need for such a process and structure is urgent, and the stakes are high. In the world we have left, for example, the designs of other states occupied us. In the world we have entered, political forces both above and below the state are increasingly important, and some of them are very dangerous. To deal with the specter of mass-casualty terrorism on American soil, for example, we urge the U.S. Government to realign and rationalize its approach to homeland security. We propose the consolidation of several existing assets into a National Homeland Security Agency, with cabinet status and a director who is a statutory advisor to the

National Security Council. By bringing the Federal Emergency Management Agency together with the Coast Guard, the Border Patrol, and the Customs Service—and by combining the government's dispersed cyber-security programs, as well—the whole of our effort will exceed the sum of the parts. Only by planning ahead, too, can the assets of the Department of Defense be engaged in homeland security without jeopardizing core constitutional principles.

We will return to this proposal in a moment, for it is clearly the focus of this hearing today. But since the Phase III Report is an internally integrated program of reform, predicated on the centrality of strategy, it is not possible to appreciate fully our proposal for a National Homeland Security Agency without the proper context. That context includes the Commission's proposals to reform the State Department, the Defense Department, government personnel systems, and the Congress, too.

Thus, in the world we have left, the strength of our adversaries concentrated our attention. In the world we have entered, the weakness of other countries is among our greatest problems. We need a State Department—and an intelligence community—sophisticated and adept at anticipating and *preventing* conflict, economic instability, and terrorist mayhem. The Commission thus recommends major changes to the crippled and resource-starved State Department that exists today, and it recommends new emphases in intelligence efforts as well. We also urge that the Secretary of the Treasury be made a statutory member of the National Security Council, for a preventive strategy must incorporate fully the economic dimension of statecraft to succeed in the era ahead.

In the world we have left, too, mass and might constituted the sinews of national power. In the world we have entered, knowledge and agility are vital. This Commission views U.S. shortcomings in science policy and education as national security problems. We recommend major investments to bolster science and mathematics teaching, and a doubling of the public research and development budget within this decade. In this light, we also recommend major changes in how the Defense Department does business for, as it stands now, the Pentagon is manifestly incapable of transforming American military capabilities to accord with 21st century conditions. It is so massive and mighty that it is muscle-bound; it is not flexible and agile enough even by half.

The Commission also urges major initiatives to stem an incipient crisis of competence in government due to looming personnel deficiencies in the Civil Service, the Foreign Service, and the Armed Forces. And we call upon Congress to facilitate Executive Branch reform and to put its own two houses in order. To that end, we recommend that authorization and allocation processes be combined into single committees and subcommittees.

We four and the other ten members of this Commission together represent a diverse array of political views and professional experiences. Yet, we propose fifty major recommendations for change without a single dissent or reservation, suggesting that our road map for reform is politically practical. And reform we must. The consequences of embracing the status quo are more dangerous to this nation than any likely external foe. If we hold to the present, we will lose the future. We challenge the complacent among us to show otherwise, and we applaud those Members of this Sub-Committee, and other committees in the Senate and the House of Representatives, who understand the imperative for change.

Let us now return to the matter at hand: terrorism, counter-terrorism, and their related intelligence aspects. Other Members of Congress have already asked this Commission why is there no comprehensive national strategy to combat terrorism? We started

our answer by pointing out that dealing with terrorism is an inherently difficult problem, for several reasons.

As we all understand, terrorism is varyingly motivated. Sometimes the motives are instrumental—a desire to draw attention to a cause, to extort money, to goad a target government into counterproductive responses. But sometimes the motives are not instrumental—revenge for slights real and imagined, religious exoneration, or cult-like impulses—such as those of the Aum Shinrikyo movement—difficult for outsiders to fathom.

Sometimes terrorism emanates from states, sometimes from small groups or even individuals, and sometimes it comes from combinations of state-sponsorship with other actors. Determining the source of any particular terrorist act can be difficult, and it is often the intention of terrorists to make it difficult.

The geographical sources of terrorism are wide. Terrorism comes from no one region of the world and, as we have learned, it includes domestic elements as well.

The wages of terrorism are also wide. Aside from Americans who are killed by terrorist acts, we and others pay a host of indirect prices—from expensive security precautions to the institutionalized fear that comes from having hideous acts imposed upon us. The crushing of entire societies, too, such as that of Algeria in recent years, imposes a price on the entire international community, one with which the United States invariably must deal.

Terrorism also takes several tactical forms: assassination, bombing, biological or chemical attack, cyber-terror, and, potentially, terrorism involving weapons of mass destruction. It is very hard to plan adequately for such a wide array of problems.

There is a wide array of targets, too, a complexity that has generated considerable confusion. While most scholars define terrorism, in its basic form, as essentially attacks on civilians, some observers include attacks on uniformed military personnel operating abroad as forms of terrorism. Others disagree, considering such attacks, such as those on the U.S.S. Cole, Khobar Towers, and the Marine compound in Lebanon in October 1983, to be more like forms of warfare.

The distinction is not just definitional or theoretical, as those on this Committee well understand. It influences how the U.S. government approaches policy solutions to such problems. This raises a key issue, which is the increasing tendency for national security and law enforcement to merge with one another. The present inclination of the U.S. government, which is to treat even the most expansively defined “terrorist act” as a *criminal* act, is, in our judgment, the right thing to do. At the very least, however, we must be honest with ourselves about the consequences of the choices we make.

Clearly, too, such choices have organizational implications. This Commission has concluded that, with respect to terrorism, the current distinction between crisis management and consequence management is neither sustainable nor wise. The duplicative command arrangements that have been fostered by this division are prone to confusion and delay. We believe that the National Homeland Security Agency should develop and manage a single response system for national incidents, in close coordination with the Department of Justice and the FBI. This would require that the current policy, which specifies initial DoJ control in terrorist incidents on U.S. territory, be amended once Congress creates NHSA. We believe that this

arrangement would in no way contradict or diminish the FBI's traditional role with respect to law enforcement.

Obviously, the organizational implications of how we define and deal with terrorism are wider even than this. Given this diversity of motives, sources, tactics, and definitions, the responsibility for dealing with terrorism within the U.S. government ranges over several Executive Branch departments and agencies, as well as over several Senate and House committees on the Legislative Branch side. Developing an effective comprehensive strategy for dealing with terrorism would be difficult in any event, but under these circumstances it becomes more difficult still.

The U.S. Commission on National Security/21st Century concluded that, however difficult the problem of terrorism may be, we simply must do a better job of dealing with it. The problem has already caused us grievous trouble, and it is getting worse. The vector between the threats we face and the organizational responses at our disposal is getting wider.

The Commission's Phase I Report concluded that the prospect of mass casualty terrorism on American soil is growing sharply. That is because the will to terrorism and the ways to perpetrate it are proliferating—and merging. We believe that, over the next quarter century, this danger will be one of the most difficult national security challenges facing the United States—and the one we are least prepared to address. The Commission's Phase II Report, on strategy, focussed directly on this challenge, arguing that the United States needed to integrate the challenge of homeland security fully into its national security strategy. The Phase III Report devotes its entire first section—one of five—to the problem of organizing for homeland security. We have argued that to integrate this issue properly into an overall strategic framework, there must be a significant reform of the structures and processes of the current national security apparatus.

Before discussing the details of a National Homeland Security Agency, we wish to stress what the Commission intends, and does not intend, to achieve with this recommendation.

We conceive of the National Homeland Security Agency is a *part* of, not a *substitute* for, a strategic approach to the problem of homeland security. Some have claimed that this Commission's proposal for a National Homeland Security Agency is an organizational fix without a strategy. This claim is twice mistaken.

First, within Section I of the Phase III Report, the rubric "Organizational Realignment" is item "B." Item "A" is called "The Strategic Framework," where we make clear that the Commission's proposed strategy for homeland security is three-fold: to *prevent*, to *protect*, and to *respond* to the problem of terrorism and other threats to the homeland.

Second, the Commission insists that its strategy for homeland security must be part of a broader national security strategy itself. That is why we argue that a "Czar" model to deal with this problem is inappropriate. Nothing would be more likely to keep homeland security separate and apart from national security writ large than such an "off-line" approach.

Clearly, then, the National Homeland Security Agency is embedded within a strategy for homeland security, and the strategy for homeland security is embedded in a national security strategy. It follows, therefore, that the National Security Council will still have *the* critical role in coordinating the various government departments and agencies involved in homeland security. In the Commission's three-fold strategy for homeland security—*prevent*, *protect*, and *respond*—

many departments and agencies must concert their efforts. The Department of State has a critical role in prevention, as does the intelligence community and others. The Department of Defense has a critical role in protection, as do other departments and agencies. Many agencies of government, including, for example, the Centers for Disease Control in the Department of Health and Human Services, have a critical role in response.

Obviously, we are not proposing to include sections of the Intelligence Community, the State Department, the Defense Department, and the Department of Health and Human Services in the National Homeland Security Agency. Nor are we attempting to exclude or to diminish their roles in the interagency process. As with any other complex functional area of government responsibility, no single agency is adequate to the task of homeland security.

That said, the United States stands in dire need of stronger organizational mechanisms for homeland security. It needs to clarify accountability, responsibility, and authority among the departments and agencies with a role to play in this increasingly critical area. Authority and accountability for the strategic direction of the federal government rest with the President, not a policy coordinator or staffer. Authority and accountability should be vested in the same individual to the extent possible for specific functions, not spread across jurisdictional boxes that have no relation to 21st century challenges. We need to realign the diffused responsibilities that sprawl across outdated concepts of jurisdictional boundaries.

We also need to recapitalize several critical components of U.S. Government in this regard. Some of these components are now in the wrong departments, which accounts for the lack of attention and support they receive. While the overall strategic direction of the federal government must start with the President, supported by the NSC and its staff, stronger organizational mechanisms are needed to execute the layered strategy we propose. Our strategy, which emphasizes prevention and response as a means of strengthening our deterrent, reflects the realities of the 21st century. But our organizational entities to execute the border security and crisis management functions are too fragmented. We need to realign these capabilities to make them more flexible and agile. At the same time, we need to ensure that we can provide maximum support to the State and local officials who will ultimately face the crises.

In our view, we need a Cabinet-level agency for this purpose. The job is becoming too big, and requires too much *operational* activity, to be housed at the NSC staff. The NSC and staff should focus on the strategy and the matching of resources to objectives. Operational details and daily operations cannot be successfully managed out of the White House. As we have already said, they are much too important to a properly *integrated* national strategy to be handled off-line by a "czar," which would split out a major national security threat from the NSC and staff that should be dealing with it.

Most important, the task requires an organizational focus of sufficient heft to deal as an equal in this domain with the Departments of State, Defense, and Justice. Lacking such a focus, it is hard to see how we will ever be able to create an efficient and effective interagency mechanism to deal with this problem.

Mr. Chairman, this Commission's proposal for a National Homeland Security Agency is detailed with great care and precision in the Phase III Report. With your kind permission, we would like to include both our institutional reform section and our homeland security section for the record—for we see no need to repeat word for word what the Report has already made available to all. However, we would like to describe the proposal's essence for the subcommittee.

We propose a Cabinet-level agency for homeland security, whose civilian director will be a statutory advisor to the National Security Council, the same status as the Director of Central Intelligence. That Director will be appointed by the President and confirmed by the Senate. The basis of this agency will be the present Federal Emergency Management Agency (FEMA). Added to FEMA will be the Coast Guard (from the Department of Transportation), the Border Patrol (from the Department of Justice), the Customs Service (from the Department of the Treasury), the National Domestic Preparedness Office (NDPO), currently housed at the FBI, and an array of cyber-security programs now housed varyingly in the FBI, the Commerce Department, and elsewhere.

Together, the National Homeland Security Agency will have three directorates (Prevention; Critical Infrastructure Protection; and Emergency Preparedness and Response), and a National Crisis Action Center to focus federal action in the event of a national emergency. The Agency will build on FEMA's regional organization, and will *not* be heavily focussed in the Washington, DC area. It will remain focused instead on augmenting and aiding state and local resources. The purpose of this realignment of assets is to get more than the sum of the parts from our effort in this area. Right now, unfortunately, we are getting much less than the sum of the parts.

Thus, we are *not* proposing vast new undertakings. We are *not* proposing a highly centralized bureaucratic behemoth. We are *not* proposing to spend vastly more money than we are spending now. We *are* proposing a realignment and a rationalization of what we already do, so that we can do it better. In this regard, we intend for the union of FEMA, Coast Guard, Border Patrol, Customs, and other organizational elements to produce a new institutional culture, new synergies, and higher morale. We *are* proposing to match authority, responsibility, and accountability. We *are* proposing to solve the "Who's in charge?" problem at both our borders and in disaster management.

Perhaps most important, we are proposing to do all this in such a way as to guarantee the civil liberties we all hold dear. In our view, it is the *absence* of effective strategies and organizations that is a threat to civil liberties. Since Defense Department assets would have to come into play in response to a mass-casualty attack on U.S. soil, the best way to ensure that we violate the U.S. Constitution is to *not* plan and train ahead for such contingencies. The Director of the National Homeland Security Agency, I repeat, is a civilian, subject to confirmation and oversight by the Congress. If no such person is designated responsible ahead of time to plan, train, and coordinate for the sort of national emergency of which we are speaking, I leave it to your imaginations—and to your mastery of American history—to predict what a condition of national panic might produce in this regard.

Let us now briefly address the matter of intelligence as it relates to the matter of homeland security. The Phase III Report addresses this question in two places: in Section I in the context of the NHSA proposal, and in Section III on Institutional Reform under the heading of "The Intelligence Community."

As to the former, the Report stresses that good intelligence is the key to preventing attacks on the homeland and urges that homeland security become one of the intelligence community's most important missions. Better human intelligence must supplement technical intelligence, especially on terrorist groups covertly supported by states. Fuller cooperation and more extensive information-sharing with friendly governments will also improve the chances that would-be perpetrators will not reach U.S. borders. In our view, the intelligence community also

needs to embrace cyber threats as a legitimate mission, and to incorporate cyber-intelligence gathering on potential strategic threats from abroad into its activities. To advance these ends, we recommend that the National Intelligence Council: (1) include homeland security and asymmetric threats as an area of analysis; (2) assign that portfolio to a National Intelligence Officer; and (3) regularly produce National Intelligence Estimates on these threats.

As to the last, we stress the need for better human intelligence on terrorist threats. We need not rehearse for this subcommittee all of the sensitive and difficult areas that attend this question. But it is our judgment that we must bolster the quality and quantity of those entering the community's clandestine service, as well as the recruitment of those foreign nationals with the best chance of providing information on terrorist threats to the homeland. Along with the National Commission on Terrorism, we believe that guidelines for the recruitment of foreign nationals should be reviewed to ensure that, while respecting legal and human rights concerns, they maximize the Intelligence Community's ability to collect intelligence on terrorist plans and methods. We recognize the need to observe basic moral standards in all U.S. Government conduct, but the people who can best help U.S. agents penetrate effectively into terrorist organizations are not liable to be model citizens of spotless virtue. This is *not* a choice, in our view, between values and pragmatism. After all, the saving of many thousands of innocent lives is a value, too.

Finally in this regard, we have recommended giving greater intelligence priority to the analysis of economic and science and technology trends, where the U.S. Intelligence Community's capabilities are inadequate. We also recommend that Congress support this new emphasis by increasing significantly the National Foreign Intelligence Program (NFIP) budget for collection and analysis. What has this to do with terrorism? Plenty!

The sources of terrorism overseas inhere in cultural proclivities and socio-economic conditions. If we do not understand those proclivities and conditions, we will be unable to anticipate and prevent terrorist movements from arising to harm the United States, its interests, and its allies. Moreover, as we and others have indicated, terrorists, along with all essentially weak actors, incline toward asymmetric strategies in attacking the United States. Non-state groups can get enormous leverage in the pursuit of such asymmetric strategies through new technologies, particularly well-funded political movements in which terrorism is a tactic but not a *raison d'etre*. In an age when critical scientific discoveries and technological innovations are being generated increasingly in the private sector—and when technological security itself must therefore be redefined—it is incumbent on U.S. intelligence agencies to monitor carefully the potential interstices between technological innovation, high-end science and technology espionage, and terrorist organizations.

Mr. Chairman, one final point, if we may. All fourteen of us on this Commission are united in our belief that our Report constitutes the best road map for the United States to see to the common defense. All fourteen of us, without dissent, agreed to put the subject of homeland security first and foremost in that Report. All fourteen of us, seven Democrats and seven Republicans, are determined to do what we can to explain our recommendations on this matter in a fully bipartisan manner. We thank you, Mr. Chairman, and this subcommittee for the opportunity to testify today. We look forward to working with you to advance our common goal of a safe and secure America.